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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/578,437	05/25/2000	Jianhua Fan	12515.4USD1	6437

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EXAMINER

GELLNER, JEFFREY L

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 02/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

SK

Office Action Summary	Application No. 09/578,437	Applicant(s) FAN, JIANHUA	
	Examiner Jeffrey L. Gellner	Art Unit 3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,27,29,44,45 and 47-56 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,27,29,44,45 and 47-56 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

Claims 1, 50, 53, 55, 54, and 56 are objected to because of the following informalities:

In Claim 1, line 6, the element “the posts” should be --the at least one post-- to maintain consistency in language for the claim limitation.

In Claim 1, line 6, the language “separate each other” should be --separate from each other--.

In Claim 1, line 7, the limitations --post-- needs to be added to the line.

In Claim 50, lines 1 and 2, “support” should be --post-- to conform to the independent claim.

In Claim 53, line 5, “supports” should be --supporting--.

In Claim 54, line 1, the three wing leg” should be --at least one three wing leg-- for consistency with the language of Claim 53.

In Claim 55, line 1, the “three wing leg” should be --at least one three wing leg-- for consistency with the language of Claim 53.

In Claim 56, line 2, the “three wing leg” should be --at least one three wing leg-- for consistency with the language of Claim 53.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. §102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 29, 47, 50, and 53 are rejected under 35 U.S.C. §102(b) as being anticipated by Wilson et al. (GB 2198324 A).

As to Claim 1, Wilson et al. discloses a self watering tray (Figs. 1-5) for a plant pot (defined as 1 of Fig. 1) comprising a tray (3 as disclosed in Fig. 1; page 4 lines 5-8), the tray having side walls (“side wall” of Fig. 1) and a bottom wall (“bottom wall” of Fig. 1), the tray holding fluid (inherent in “water reservoir” of abstract; shown in Fig. 1; Fig. 4); and, at least one post (7 and 8 of Fig. 2) extending upwardly (shown in Figs. 1-4) from the bottom wall for supporting a plant pot (1 of Figs. 3 and 4) and the posts separate (shown in Fig. 2), the at one post not hollow (7 and 8 of Fig. 2, in that they are solid), the at least one post making enough space for reserving fluid in the tray (shown in Fig. 1).

As to Claim 29, Wilson et al. further disclose a fluid intake lip (“lip” of Fig. 1), the fluid intake lip disposed on the side walls of the tray (see Fig. 1), so that fluid can easily be added into the tray through the fluid intake lip.

As to Claim 50, Wilson et al. further disclose the at least one support having a second section (8 of Figs. 1 and 2) the second section extending upward from the support (the support being 7 of Figs. 1 and 2).

As to Claim 47, Wilson et al. further disclose a wick (9 of Fig. 1), the wick provides a fluid conduit capable of sucking fluid from the tray ("moisture absorbing" of abstract).

As to Claim 53, Wilson et al. disclose a self watering tray (Figs. 1-5) for a plant pot (defined as 1 of Fig. 1) comprising a tray (3 as disclosed in Fig. 1; page 4 lines 5-8), the tray having side walls ("side wall" of Fig. 1) and a bottom wall ("bottom wall" of Fig. 1), the tray holding fluid (inherent in "water reservoir" of abstract; shown in Fig. 1; Fig. 4); and, at least one leg (for example, 7 and 8 of Fig. 2), the at least one leg formed by at least three wings (wings shown in Fig. 2 in that each leg has two wings that extend away from the wick and one wing which extends to and attaches to another leg), the at least three legs coupled to the tray for supporting a plant pot. .

As to Claim 55, Wilson et al. further disclose the at least one three wing leg extends upwardly from the bottom wall of the tray (see Figs. 1 and 2).

As to Claim 56, Wilson et al. further disclose an up section (8 of Figs. 1 and 3) extending upwardly from the three wing leg

Claims 1, 47, and 48 are rejected under 35 U.S.C. §102(b) as being anticipated by Lucas et al. (FR 2719974 A1).

As to Claim 1, Lucas et al. discloses a self watering tray (Figs. 3, 5, and 6) for a plant pot (not shown but inherent in Fig. 6) comprising a tray (2 of Fig. 6), the tray having side walls (region around leadline of 2 of Fig. 6) and a bottom wall (region around leadline of 4 of Fig. 6), the tray holding fluid (shown in Fig. 6); and, at least one post (14 of Figs. 3 and 6) extending

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upwardly (Fig. 3) from the bottom wall for supporting the plant pot, the at least one post separate from each other (14 of Fig. 3) and not hollow (shown in Fig. 3, in that they are solid), the at least one post making enough space for reserving fluid in the tray (shown in Fig. 6).

As to Claim 47, Lucas et al. further discloses a wick (11 of Figs. 3, 5, and 6), the wick providing a conduit capable of sucking fluid from the tray (shown in Fig. 6).

As to Claim 48, Lucas et al. further discloses a tube (13 of Figs. 3 and 6), the wick inserted into the tube (shown in Figs. 3 and 6).

Claims 27, and 44 are rejected under 35 U.S.C. §102(b) as being anticipated by Rajon (FR 1544194) (document N of Examiner's 892 of office action paper no. 3).

As to Claim 27, Rajon discloses a self watering tray (Figs. 1-3) for a plant pot (G of Fig. 3) comprising a tray (A of Figs. 2 and 3), the tray having side walls (shown in of Figs. 2 and 3) and a bottom wall (region around leadline of A in Fig. 2), the tray holding fluid (shown in Fig. 3); and, at least one leg (C,D, and F of Fig. 1) coupled to the tray (shown in Fig. 3), the at least one leg having two sections , an up section (D of Figs. 1 and 3) and a low section (F and sidewall of region C of Fig. 1), the up section is smaller than the low section (shown in Figs. 1 and 3), low section having a closed side wall (the side wall, region of sidewall of element C), a shoulder (region between D and extending out to C of Figs. 1 and 3) between the up section and low section supporting the plant pot (shown in Fig. 3).

As to Claim 44, Rajon further discloses the at least one leg filled with a fluid sucking material (E of Figs. 1 and 3) which provides a fluid conduit capable of sucking fluid from the tray (shown in Fig. 3).

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Claims 27, 45, and 52 are rejected under 35 U.S.C. §102(b) as being anticipated by Travers (FR 2637156).

As to Claim 27, Travers discloses a self watering tray (Figs. 1-6c) for a plant pot (12 of Fig. 1) comprising a tray (20 of Fig. 1), the tray having side walls (Fig. 1) and a bottom wall (Fig. 1), the tray holding fluid (Fig. 1); and, at least one leg (18 of Figs. 1 and 2) coupled to the tray (shown in Fig. 1), the at least one leg having two sections, an up section (26 of Figs. 2 and 4c) and a low section (22 of Figs. 2 and 4c), the up section is smaller than the low section (shown in Figs. 2 and 4c), each of them having a closed side wall (Figs. 2 and 4c in that they do not have apertures on their sidewalls), a shoulder (region where leadline of 22 touches leg 18 in Figs. 2 and 4c) between the up section and low section supporting the plant pot (shown in Fig. 1).

As to Claim 45, Travers further discloses a wick (28 of Figs. 3 and 4c) accompanying the leg (shown in Figs. 4a and 4b), the leg not filled with the wick (shown in Figs. 4a and 4b).

As to Claim 52, Travers further discloses a pad (28a of Fig. 4a) under the leg for standing more stable on the tray bottom.

Claim Rejections - 35 USC §103

The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claim 49 and 51 is rejected under 35 U.S.C. §103(a) as being unpatentable over Travers (FR 2637156) in view of Shirohata (JP7-313003).

As to Claim 49, the limitations of Claim 27 are disclosed as described above. Not disclosed is an intake lip on the side walls of the tray. Shirohata, however, discloses a lip (region at end of the tray's sidewall as shown in Fig. 6) on the sidewall of the tray. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the tray of Travers by adding a lip disclosed by Shirohata so as to provide to consumer tastes.

As to Claim 51, the limitations of Claim 29 are disclosed as described above. Travers further discloses a bottom wall (region around where leadline of 24 ends in Fig. 4a) on the lower section. Not disclosed is the bottom wall with a hole for fluid communications. Shirohata, however, discloses a bottom wall with a hole (shown in Fig. 1 in element 11). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the tray of Travers by adding a hole in the bottom wall as disclosed by Shirohata so as to provide area for the wick.

Claim 54 is rejected under 35 U.S.C. §103(a) as being unpatentable over Wilson et al. (GB 2198324 A) in view of Travers (FR 2637156).

As to Claim 54, the limitations of Claim 53 are disclosed as described above. Not disclosed is a pad under the at least three wing leg. Travers, however, a pad under a leg (28b of Fig. 4a). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the tray of Wilson et al. by adding a pad under the leg as disclosed by Travers so as to ensure the wick stay in place.

Response to Arguments

Applicant's arguments filed 15 July 2003 have been fully considered but they are not persuasive. The crux of Applicant's arguments are: (1) Wilson et al. does not disclose separate posts but a framework (Remarks 1st page 3rd paragraph); (2) Lucas discloses a pot with a plate which supports a growing medium. The apparatus of Luca is completely different from the instant invention (Remarks 2nd page); (3) Rajon does not disclose a closed side wall (Remarks 3rd page 5, 1st complete paragraph); and, (4) Wilson does not disclose a closed sidewall.

As to argument (1), Examiner considers Wilson et al. to disclose separate posts as shown in Fig. 2).

As to argument (2), Examiner disagrees with Applicant. The apparatus of Lucas is capable of functioning as a tray and does meet the language of Applicant's claims.

As to argument (3), Rajon does disclose a leg with closed side wall. This is the region or thickness of element C whose upper face is the shoulder.

As to argument (4), Examiner considers the legs in Fig. 2 of Wilson et al. to be shown as solid. In addition, the legs of Fig. 1 are solid and not hollow even if they have an aperture.

Conclusion

Examiner provides a copy of Travers and Shirohata.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Jeffrey L. Gellner whose phone number is 703.305.0053. The

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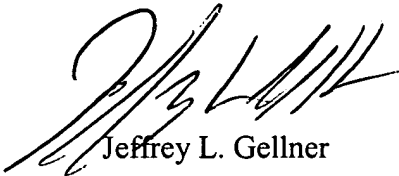
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Examiner can normally be reached Monday through Thursday from 8:30 am to 4:00 pm. The

Examiner can also be reached on alternate Fridays.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Peter Poon, can be reached at 703.308.2574. The official fax telephone number for the Technology Center where this application or proceeding is assigned is 703.872.9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.308.1113.



Jeffrey L. Gellner